

C. DAVID COOK

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| <p style="text-align: right;">Page 110</p> <p>1 accelerate, would that affect, would<br/>2 acceleration affect the relationship between<br/>3 the trustee and the bondholders?<br/>4 A. It could, yes.<br/>5 Q. So would acceleration, as you are defining it,<br/>6 just to make sure we are on the same page,<br/>7 include both the option of asking the trustee<br/>8 to declare an event of default and accelerate<br/>9 the bonds and also just PNC asking the -- its<br/>10 client to make all or forcing all obligations<br/>11 to become immediately due and payable of the<br/>12 client?<br/>13 A. Yes, I could use the word either way.<br/>14 Q. Okay. And is hiring a consultant another<br/>15 option that you have considered from time to<br/>16 time?<br/>17 A. Yes, it is.<br/>18 Q. And would offering more money in the form of a<br/>19 bridge loan be another option?<br/>20 MR. COGAN: Objection.<br/>21 THE WITNESS: Sorry?<br/>22 MR. COGAN: I just objected.<br/>23 MS. HACKETT: You can answer.<br/>24 A. Yeah, yes, I mean that's certainly possible.<br/>25 What I find myself thinking about is that there</p>   | <p style="text-align: right;">Page 112</p> <p>1 letter of credit agreements?<br/>2 MS. HACKETT: You are asking if he<br/>3 already testified to that?<br/>4 MR. TERUYA: Yeah, I just said you<br/>5 also mentioned that.<br/>6 MS. HACKETT: I guess you can answer<br/>7 it again.<br/>8 A. Yeah, it's -- our ability to offer a waiver<br/>9 could well have been written into the document.<br/>10 Whether we chose to do it or not would depend<br/>11 on the underlying condition -- situation at the<br/>12 time.<br/>13 Q. And with respect to all the options we just<br/>14 talked about, is it fair to say that, like with<br/>15 the case of a waiver, what PNC chose to do in a<br/>16 particular instance depended on the<br/>17 circumstances?<br/>18 A. Right, and not -- not to belabor, but to me it<br/>19 is a little bit like the rumble strip. You<br/>20 know you've hit it, you don't know until you<br/>21 hit it what you are really going to do, but you<br/>22 don't want to hit the wall, and so I mean,<br/>23 frankly, the government's kind of given us<br/>24 that.<br/>25 What we do in the document is we give</p>                             |
| <p style="text-align: right;">Page 111</p> <p>1 are hundreds of thousands of things that<br/>2 might, you know, that might happen, and, again,<br/>3 it's going to depend on, you know, our judgment<br/>4 on what's really occurring with the customer.<br/>5 Q. Was it your understanding that at the time that<br/>6 PNC could under certain circumstances in<br/>7 essence take control of management or<br/>8 operations of a client if it wanted to?<br/>9 A. No.<br/>10 Q. So your understanding was that PNC could not do<br/>11 that?<br/>12 A. That it is -- it never -- yes, that's my<br/>13 understanding.<br/>14 Q. And was another option that PNC had available<br/>15 to it in instances of noncompliance requesting<br/>16 more information from the client and continuing<br/>17 to work with management?<br/>18 A. That's probably the first -- you know, that's<br/>19 probably the first step we take. You know, in<br/>20 many cases the customer's notifying us that<br/>21 they are not in compliance. You know, my hope<br/>22 would be that the first question a relationship<br/>23 manager asks is for more information.<br/>24 Q. And you've already mentioned that a waiver was<br/>25 another option that often was available under</p> | <p style="text-align: right;">Page 113</p> <p>1 ourselves a set of -- a set of points at which<br/>2 when we -- when we make the loan or we agree to<br/>3 extend the credit, we want some -- you know, we<br/>4 want some warning points where we are going to<br/>5 come back in a discussion with a customer,<br/>6 whether we choose to do something about it or<br/>7 not at the time, we look at it ahead of time<br/>8 and say what if and if and if. We want to talk<br/>9 about it.<br/>10 Q. But until you actually get to a particular<br/>11 instance --<br/>12 A. Till you get there --<br/>13 Q. -- you don't know what you would do?<br/>14 A. Right.<br/>15 Q. And are there any -- and I take it there's also<br/>16 no just general principles, even if there's no<br/>17 particular policies or practices, but that<br/>18 there's no general principles that govern<br/>19 evaluation and decisions relating to all the<br/>20 options we just talked about?<br/>21 MR. COGAN: Objection.<br/>22 A. No, there aren't.<br/>23 Q. Who was --<br/>24 A. I mean other than good judgment at the time.<br/>25 Q. And you mentioned that the goal is to avoid</p> |

29 (Pages 110 to 113)

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| <p style="text-align: right;">Page 114</p> <p>1 hitting the wall. Do you mean by that the goal<br/> 2 is, of course, to choose the option that will<br/> 3 maximize PNC's interests?<br/> 4 A. When we extend credit, the goal is to get it<br/> 5 back at some point. We don't make a lot of<br/> 6 money if we make loans that don't get repaid,<br/> 7 and so hitting the wall to me is getting<br/> 8 ourselves in a position where we get less than<br/> 9 100 cents on the dollar back.<br/> 10 So the rumble strips, and I guess I'm<br/> 11 stuck in that, but anyway, I mean the rumble<br/> 12 strip's there basically to cause us to have a<br/> 13 chance, as we probably do with hundreds of<br/> 14 customers a day, have a chance to talk about<br/> 15 the fact that something seems to be happening<br/> 16 in the company that neither of us thought would<br/> 17 happen, so let's understand it, and either<br/> 18 let's get comfortable with it or we are going<br/> 19 to be more uncomfortable, but let's still try<br/> 20 to do something so that -- so that the customer<br/> 21 survives and we get paid.<br/> 22 MS. HACKETT: Can we go off the<br/> 23 record for a minute?<br/> 24 MR. TERUYA: Sure.<br/> 25 THE VIDEOGRAPHER: We are going off</p> | <p style="text-align: right;">Page 116</p> <p>1 responsible for as an organization, you know,<br/> 2 along the way, if we can be fully repaid, you<br/> 3 know, and the customer remains a viable<br/> 4 employer in our community, that's just viewed<br/> 5 as a good thing.<br/> 6 Q. Is there any relationship to your understanding<br/> 7 between the survival of the customer and PNC's<br/> 8 chances of full recovery?<br/> 9 A. Never thought about it. So I don't know.<br/> 10 Q. Or put differently, in case of the way I worded<br/> 11 the question was confusing, does PNC to your<br/> 12 knowledge have less of a chance of full<br/> 13 recovery in bankruptcy rather than not in<br/> 14 bankruptcy of a customer?<br/> 15 A. And, again, I've got -- I've got no statistics<br/> 16 that allow me to answer one way or the other.<br/> 17 Somebody may have those statistics. I don't.<br/> 18 Q. Okay. And I think you mentioned that the<br/> 19 various --<br/> 20 A. And -- but maybe it's very to say bankruptcy<br/> 21 doesn't necessarily -- I mean a customer can<br/> 22 survive and not file bankruptcy, a customer can<br/> 23 not survive and not file bankruptcy. So it<br/> 24 wasn't -- maybe I shouldn't go back, but it<br/> 25 wasn't logical to me that bankruptcy was the</p> |
| <p style="text-align: right;">Page 115</p> <p>1 the record. The time is 11:23 a.m.<br/> 2 - - - -<br/> 3 (There was a luncheon recess in the proceedings.)<br/> 4 - - - -<br/> 5 THE VIDEOGRAPHER: We are now back on<br/> 6 the record. The time as indicated on the<br/> 7 screen is 12:24.<br/> 8 BY MR. TERUYA:<br/> 9 Q. When we left off, we were talking about the<br/> 10 goal of the various options that PNC might<br/> 11 consider --<br/> 12 A. Right.<br/> 13 Q. -- upon learning of a noncompliance under a<br/> 14 letter of credit, and I think you mentioned<br/> 15 that the goal was to maximize the chances of<br/> 16 PNC's repayment and to maximize the chance that<br/> 17 the customer survives, and why was it important<br/> 18 that the customer survives, from PNC's<br/> 19 perspective?<br/> 20 A. I mean from PNC's perspective, you know,<br/> 21 probably if I was to give -- if I was to give<br/> 22 it in order of priority, obviously we would<br/> 23 prefer -- we would prefer to be repaid first,<br/> 24 and yet if you go back to the kind of four<br/> 25 precepts of the groups that we really feel</p>   | <p style="text-align: right;">Page 117</p> <p>1 only way the customer didn't survive.<br/> 2 Q. If I just separate out survival and bankruptcy,<br/> 3 would that change your answer to any of the<br/> 4 questions?<br/> 5 A. No, I don't think it will change my answer. I<br/> 6 think, you know, the question is whether the<br/> 7 organization, you know, can remain a viable<br/> 8 organization as an employer. Sometimes --<br/> 9 sometimes, you know, perhaps that does mean<br/> 10 that they ultimately file, sometimes it<br/> 11 doesn't, but I just don't have any statistics<br/> 12 one way or the other on whether that leads to a<br/> 13 better repayment for PNC or not.<br/> 14 Q. Okay. And I think you mentioned that which<br/> 15 option PNC would choose, and I know you<br/> 16 testified that it depends on the circumstances,<br/> 17 but I think you also mentioned in one of your<br/> 18 answers that it depended on the default type.<br/> 19 What did you mean by that?<br/> 20 MR. COGAN: Objection.<br/> 21 THE WITNESS: Sorry, what?<br/> 22 MS. HACKETT: He's just saying<br/> 23 objection. You can answer.<br/> 24 THE WITNESS: Okay. That's fine.<br/> 25 MR. COGAN: Just protecting the</p>   |

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| <p style="text-align: right;">Page 326</p> <p>1 that's all I can do.</p> <p>2 Q. So you don't have any personal knowledge as to</p> <p>3 what financial statements PNC ultimately got?</p> <p>4 A. I don't. I'm done.</p> <p>5 MR. TERUYA: I was going to say you</p> <p>6 can set that document aside unless you want to</p> <p>7 keep looking at it.</p> <p>8 MS. HACKETT: Are you at a good point</p> <p>9 to stop for the day?</p> <p>10 MR. TERUYA: Yes. Why don't we stop</p> <p>11 for the day.</p> <p>12 THE VIDEOGRAPHER: Okay. We are</p> <p>13 going off the record now. The time is 5:32.</p> <p>14 - - - -</p> <p>15 (The proceedings were adjourned at 5:33 p.m.)</p> <p>16 - - - -</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>  | <p style="text-align: right;">Page 328</p> <p>1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A<br/>COUNTY OF ALLEGHENY ) S H E E T</p> <p>2</p> <p>3 I, C. David Cook, have read the foregoing pages</p> <p>4 of my deposition given on Monday, November 24, 2003,</p> <p>5 and wish to make the following, if any, amendments,</p> <p>6 additions, deletions or corrections:</p> <p>7 Page/Line Should Read Reason for Change</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 In all other respects, the transcript is true and</p> <p>21 correct.</p> <p>22</p> <p>23 C. DAVID COOK</p> <p>24</p> <p>25 Subscribed and sworn to before me this</p> <p>_____ day of _____, 2003.</p> <p>Notary Public</p> <p>AKF Reference No. HW78347</p> |
| <p style="text-align: right;">Page 327</p> <p>1 COMMONWEALTH OF PENNSYLVANIA ) CERTIFICATE</p> <p>2 COUNTY OF ALLEGHENY ) SS:</p> <p>3 I, Heidi H. Willis, RPR, CRR, a Court Reporter</p> <p>4 and Notary Public in and for the Commonwealth of</p> <p>5 Pennsylvania, do hereby certify that the witness, C.</p> <p>6 DAVID COOK, was by me first duly sworn to testify to</p> <p>7 the truth; that the foregoing deposition was taken at</p> <p>8 the time and place stated herein; and that the said</p> <p>9 deposition was recorded stenographically by me and</p> <p>10 then reduced to printing under my direction, and</p> <p>11 constitutes a true record of the testimony given by</p> <p>12 said witness.</p> <p>13 I further certify that the inspection, reading</p> <p>14 and signing of said deposition were NOT waived by</p> <p>15 counsel for the respective parties and by the</p> <p>16 witness.</p> <p>17 I further certify that I am not a relative or</p> <p>18 employee of any of the parties, or a relative or</p> <p>19 employee of either counsel, and that I am in no way</p> <p>20 interested directly or indirectly in this action.</p> <p>21 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>22 and affixed my seal of office this 1st day of</p> <p>23 December, 2003.</p> <p>24</p> <p>25 _____</p> <p style="text-align: center;">Notary Public</p> |   |

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IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

THE OFFICIAL COMMITTEE OF )  
UNSECURED CREDITORS OF )  
ALLEGHENY HEALTH, EDUCATION & )  
RESEARCH FOUNDATION, )  
Plaintiff, )  
-vs- )  
PRICEWATERHOUSECOOPERS, L.L.P. )  
Defendant. )

Civil Action  
No. 00-684

VIDEOTAPE DEPOSITION OF: C. DAVID COOK  
VOLUME II  
CONFIDENTIAL EXCERPTS EXTRACTED

DATE: November 25, 2003  
Tuesday, 8:14 a.m.

LOCATION: MANION McDONOUGH & LUCAS  
U.S. Steel Tower  
14th Floor  
Pittsburgh, PA 15219

TAKEN BY: Defendant

REPORTED BY: Heidi H. Willis, RPR, CRR  
Notary Public  
AKF Reference No. HW78347

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| <p style="text-align: right;">Page 572</p> <p>1 Q. -- of AHERF were uninformed about the true<br/>2 state of the financial condition of AHERF?<br/>3 A. No.<br/>4 Q. Do you know of what steps, if any, any trustees<br/>5 of AHERF would, in fact, have taken if they had<br/>6 had additional information about the financial<br/>7 condition of AHERF at an earlier point in time?<br/>8 A. No.<br/>9 Q. Do you personally know of what, in fact, would<br/>10 have been the effect, if any, of any steps that<br/>11 any trustees of AHERF could have taken?<br/>12 A. No.<br/>13 Q. Do you personally know of any steps that any<br/>14 trustees of AHERF could have taken that would,<br/>15 in fact, have halted AHERF's financial demise?<br/>16 A. No.<br/>17 Q. Do you personally know what steps, if any, any<br/>18 creditors of AHERF, including --<br/>19 A. Can we go back, can we go back to that one?<br/>20 Q. Oh, sure. Do you personally know of any steps<br/>21 that any trustees of AHERF could have taken<br/>22 that would, in fact, have halted AHERF's<br/>23 financial demise?<br/>24 A. I suppose because we have just discussed the<br/>25 letter and the proposal that PNC and MBI made,</p>  | <p style="text-align: right;">Page 574</p> <p>1 MS. HACKETT: No, he answered the<br/>2 question. He didn't answer no.<br/>3 A. My answer would be no, comma, but if we had --<br/>4 if we had received different financial<br/>5 information than we received and it was -- I'm<br/>6 drawing the conclusion it was more negative --<br/>7 if we had received it and it was more negative,<br/>8 we would have had a chance to do something. I<br/>9 can't tell you what we would have done, but the<br/>10 earlier we had a chance to start dealing with<br/>11 something, the better off, generally speaking,<br/>12 you know, we are and the client is.<br/>13 Q. Okay. And based on what you talked about<br/>14 before about the considerations, the many<br/>15 considerations that go into choosing among many<br/>16 options, you have no personal knowledge of what<br/>17 particular steps, if any, any creditors of<br/>18 AHERF would have taken if they had had<br/>19 additional information about the financial<br/>20 condition of AHERF at an earlier point in time?<br/>21 A. Good answer, I agree.<br/>22 Q. And do you personally know what, in fact, would<br/>23 have been the effect, if any, of any steps that<br/>24 could have been taken by any creditors of<br/>25 AHERF, including PNC?</p> |
| <p style="text-align: right;">Page 573</p> <p>1 and when we discussed that I told you that I<br/>2 thought there was a fair chance that that<br/>3 financing might have stabilized it, but I<br/>4 really have to change the answer on that one<br/>5 and say that if the trustees had accepted the<br/>6 proposals from PNC and MBIA, that I believe it<br/>7 might have given them a chance to stabilize the<br/>8 organization.<br/>9 Q. Other than that are you aware of any steps that<br/>10 trustees of AHERF could have taken that would<br/>11 have halted AHERF's financial demise?<br/>12 A. No.<br/>13 Q. Do you personally know what steps, if any,<br/>14 any creditors of AHERF, including PNC, would,<br/>15 in fact, have taken if they had had additional<br/>16 information about the financial condition of<br/>17 AHERF at an earlier point in time?<br/>18 A. No.<br/>19 Q. Do you personally know --<br/>20 A. I mean I think we would have done something,<br/>21 but it's just speculative. As we said before,<br/>22 I mean lending is an art, not a science.<br/>23 Q. So the answer to your last question just to be<br/>24 clear is no, no personal knowledge?<br/>25 MR. COGAN: Objection.</p> | <p style="text-align: right;">Page 575</p> <p>1 MR. COGAN: Objection.<br/>2 A. It's too general for me to say, but the answer<br/>3 is generally no.<br/>4 Q. Do you personally know of any steps that any<br/>5 creditors of AHERF, including PNC, could have<br/>6 taken that would, in fact, have halted AHERF's<br/>7 financial demise?<br/>8 A. Could have halted, no. Might have halted, I'll<br/>9 go back to the proposals that we were making,<br/>10 the financing that we and MBIA as creditors<br/>11 were making might have halted it, and what we<br/>12 could have done was, I suppose, been more<br/>13 successful at getting the board to accept them,<br/>14 but other than that, no.<br/>15 Q. Do you personally know of any conduct of<br/>16 Coopers &amp; Lybrand that contributed to delays in<br/>17 discovering the true financial state of affairs<br/>18 in the AHERF system?<br/>19 A. I guess I have to say no.<br/>20 Q. Do you personally know of any conduct of<br/>21 Coopers &amp; Lybrand that aided in preventing the<br/>22 immediate implementation of effective measures<br/>23 in time to reverse the decline in the system's<br/>24 financial condition?<br/>25 A. No, other than suggesting that whatever their</p>  |



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| <p style="text-align: right;">Page 576</p> <p>1 normal processes and procedures were, they may<br/>2 not have been as effective here as they would<br/>3 have liked.<br/>4 Q. Do you have any personal knowledge as to<br/>5 whether that's, in fact, true?<br/>6 A. No.<br/>7 Q. Do you have any personal knowledge of any<br/>8 inaccuracies revealed in the AHERF system's<br/>9 financial statements that had a material and<br/>10 negative effect on the sale price of certain<br/>11 AHERF affiliates?<br/>12 A. No.<br/>13 Q. Do you personally know whether if any creditors<br/>14 of AHERF, including PNC, had had additional<br/>15 information about the financial condition of<br/>16 AHERF at an earlier point in time, the system,<br/>17 in fact, would have been precluded from<br/>18 incurring the obligations to creditors that<br/>19 eventually forced its bankruptcy?<br/>20 MR. COGAN: Objection.<br/>21 A. Yeah, I can surmise that that's true, but I<br/>22 don't -- I don't really know specifically at<br/>23 which point financial information may not have<br/>24 been being accurately portrayed. So I can't,<br/>25 without that knowledge, I can't exactly guess</p>  | <p style="text-align: right;">Page 578</p> <p>1 time, we would have done something, and I go<br/>2 back to my rumble strip. I don't know when I<br/>3 hit the rumble strip what I'm going to do, but<br/>4 if we had different financial information<br/>5 sooner, we would have done something.<br/>6 Q. And do you know whether the effect of whatever<br/>7 steps might have been taken would have been in<br/>8 terms of precluding the system from incurring<br/>9 the obligations that forced its bankruptcy?<br/>10 A. And that's why I was going back to timing.<br/>11 Certainly some of the steps where they took on<br/>12 additional debt might have taken place after,<br/>13 we might have gotten different financial<br/>14 information. There's a couple of speculations<br/>15 in there. I don't like double "mights," but,<br/>16 you know, if we -- if both of those had<br/>17 occurred, yes, we might have precluded them<br/>18 from making, you know, such acquisitions as the<br/>19 Graduate acquisition.<br/>20 Q. But you don't know whether, you don't<br/>21 personally know whether, in fact, that<br/>22 acquisition or any others would have been<br/>23 precluded; is that fair to say?<br/>24 MS. HACKETT: Objection, how can he<br/>25 know about an event that didn't happen? How</p> |
| <p style="text-align: right;">Page 577</p> <p>1 what steps might have, you know, might have<br/>2 been about to take place or didn't take place.<br/>3 Q. And I don't mean to ask you to guess and let me<br/>4 just ask you --<br/>5 A. I know, that's why I'm not guessing.<br/>6 Q. Okay. So just to be clear, you don't have any<br/>7 personal knowledge of this issue, in fact?<br/>8 MS. HACKETT: Of this issue? I don't<br/>9 know what --<br/>10 Q. Okay. Let me -- do you have any --<br/>11 A. I'm sorry, if you'll read it again, I'll try to<br/>12 not equivocate. I wasn't trying to equivocate.<br/>13 Q. Okay. Do you have any personal knowledge of<br/>14 whether if any creditors of AHERF, including<br/>15 PNC, had had additional information about the<br/>16 financial condition of AHERF at an earlier<br/>17 point in time, the system would, in fact, have<br/>18 precluded -- have been precluded from incurring<br/>19 the obligations to creditors that eventually<br/>20 forced its bankruptcy?<br/>21 MR. COGAN: Objection.<br/>22 A. Yeah, and I guess I'd answer partly like I<br/>23 answered above, and that really is that I don't<br/>24 know what we would have done, but given<br/>25 different financial information at an earlier</p> | <p style="text-align: right;">Page 579</p> <p>1 could he -- you are asking if you --<br/>2 MR. TERUYA: That's my point. If he<br/>3 just says no, how can I know about an event<br/>4 that didn't happen, that's fine.<br/>5 A. Great. I can't know about an event that didn't<br/>6 happen, so I can't -- I can't presume to guess<br/>7 what might have happened afterwards.<br/>8 Q. Okay. Do you personally know if any decrease<br/>9 in AHERF's income or assets for fiscal '96 or<br/>10 '97 would, in fact, have caused bondholders,<br/>11 credit enhancers or other creditors to have<br/>12 acted any differently?<br/>13 A. And my generic answer has to be if we had<br/>14 gotten different information, I'm sure we would<br/>15 have acted differently, but I don't know the<br/>16 extent to which we would have acted<br/>17 differently.<br/>18 Q. How do you know that you, in fact, you would<br/>19 have acted differently?<br/>20 A. I'm comfortable based on having been a banker<br/>21 for a lot of years that a change -- you know,<br/>22 any change in a set of information that you get<br/>23 causes you to think about it differently. I<br/>24 don't know exactly how I would have thought<br/>25 about it; therefore, I don't know exactly what</p>                                     |

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| <p style="text-align: right;">Page 580</p> <p>1 I would have done, but, you know, but any<br/>2 changes, particularly those if they happen to<br/>3 have been substantial would have caused us --<br/>4 would have caused me and everyone else to react<br/>5 differently in the bank.<br/>6 I can't speak for the other<br/>7 creditors. I can presume they would have done<br/>8 the same thing.<br/>9 Q. Okay. And you mentioned that you would have at<br/>10 least thought differently. Is it possible that<br/>11 you might have nevertheless acted the same?<br/>12 MR. COGAN: Objection.<br/>13 MS. HACKETT: Come on, Kevin,<br/>14 objection.<br/>15 A. Sure, in the third might, we might have gotten<br/>16 different information at a different time, so<br/>17 we might have -- we might have thought<br/>18 differently but we might not have acted<br/>19 differently, that's true. That's certainly a<br/>20 possibility.<br/>21 Q. And would your answer be the same if I asked<br/>22 you about any decrease in DVOG's income or<br/>23 assets for fiscal '96 or '97?<br/>24 MR. COGAN: Well, objection, I don't<br/>25 know what you mean by the same.</p>                      | <p style="text-align: right;">Page 582</p> <p>1 A. Other than my previous comments, no.<br/>2 Q. What comments are those with respect to<br/>3 covenant violations?<br/>4 A. Oh, I'm sorry, you just switched topics. No, I<br/>5 do not.<br/>6 Q. Do you have any personal knowledge of any<br/>7 decrease or do you personally know of any<br/>8 decrease in DVOG's income or assets for fiscal<br/>9 '96 or '97 would, in fact, have caused any<br/>10 covenant violations?<br/>11 A. No, and I guess both of the questions depend on<br/>12 the severity of the decrease.<br/>13 Q. Do you personally know what steps, if any, any<br/>14 creditor of AHERF would, in fact, have taken in<br/>15 response to learning of a covenant violation?<br/>16 A. No, but even more than what I said before, more<br/>17 than just getting information and feeling<br/>18 differently about it, a covenant violation says<br/>19 we are definitely on the rumble strip, so we<br/>20 would have done something different.<br/>21 Q. Do you personally know what particular steps,<br/>22 if any, any creditor of AHERF, including PNC,<br/>23 would, in fact, have taken in response to<br/>24 learning of a covenant violation?<br/>25 MS. HACKETT: Objection, other than</p>                      |
| <p style="text-align: right;">Page 581</p> <p>1 Q. Okay. Do you have any personal knowledge<br/>2 whether -- or if any decrease in DVOG's income<br/>3 and/or assets for fiscal '96 and/or '97 would,<br/>4 in fact, have caused bondholders, credit<br/>5 enhancers or other creditors to have acted any<br/>6 differently?<br/>7 A. Yeah, and in similar vein, on the scale of<br/>8 mights, and I understand that's perhaps not<br/>9 where everybody would like me to be, but the<br/>10 financial condition of DVOG was less strong<br/>11 than the financial condition of AHERF. So if<br/>12 there had been a negative change to some of the<br/>13 numbers at DVOG, it is more likely we would<br/>14 have not only thought differently, but acted<br/>15 differently, but there wasn't as much cushion<br/>16 there.<br/>17 Q. But you don't know in fact --<br/>18 A. But I do not know in fact, you are right.<br/>19 Q. -- whether you would have acted any<br/>20 differently?<br/>21 A. Correct.<br/>22 Q. Do you know whether if any decrease in AHERF's<br/>23 income or assets for fiscal years '96 or '97<br/>24 would, in fact, have caused any covenant<br/>25 violations?</p> | <p style="text-align: right;">Page 583</p> <p>1 what he's already testified to, that they --<br/>2 extensively about what a bank might do in<br/>3 response to a covenant violation?<br/>4 MR. TERUYA: I'm asking whether he<br/>5 personally knows what they would, in fact, do<br/>6 in response to learning of a covenant<br/>7 violation.<br/>8 A. I don't know what we would have done other than<br/>9 we would have done something.<br/>10 Q. And do you personally know what steps, what<br/>11 particular steps, if any, any creditor of<br/>12 AHERF, including PNC would, in fact, have taken<br/>13 in response to learning of a GAAP violation?<br/>14 A. Would it -- would it help, because this is got<br/>15 to be just as tough for you to read these as it<br/>16 is for me to answer these, would it help for me<br/>17 to agree that almost anyone involved, I don't<br/>18 know what anyone would, in fact, have done<br/>19 based on almost any scenario, because we are<br/>20 talking about someone -- we are talking about,<br/>21 you know, other creditors or other<br/>22 organizations that I have no way to control. I<br/>23 can't even control PNC.<br/>24 Q. Okay. I was going to say I'm almost -- I'm<br/>25 close to the end, it's probably worth just</p> |

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1 So I can say from my knowledge of  
2 working in the industry, if an event of -- if  
3 an event of default had been declared and to  
4 the extent that there were cross-default  
5 language, that, in fact, all of the letters of  
6 credit get drawn. That's my belief. I've got  
7 to tell you that.

8 BY MR. TERUYA:

9 Q. And you would have -- would you defer to the  
10 language of the master trust indentures that  
11 govern the conduct of those trustees?

12 A. I would do that.

13 Q. And would me showing you the master trust  
14 indentures right now in any way -- or would you  
15 have knowledge of the requirements of the  
16 master trustees beyond whatever would be in  
17 those master trust indentures?

18 A. Only generally, and the master trust indentures  
19 really ought to cover it specifically. I'm --  
20 I'm more than willing to say that the language  
21 in the master indentures might not cause that  
22 to happen. It's just my belief that it would  
23 happen.

24 Q. And if I showed you the master trust  
25 indentures, other than reading what's in there,

1 BY MR. TERUYA:

2 Q. Do you personally know what the present extent  
3 of the bankrupt AHERF estate's net insolvency  
4 is?

5 A. No.

6 Q. Have you had any conversations with any lawyers  
7 from Jones Day before this deposition?

8 A. No. Well, that's not exactly true. I guess I  
9 had a conversation with you on one earlier  
10 occasion.

11 MR. COGAN: Right.

12 A. I consider that part of, you know, part of the  
13 deposition. They wanted to make sure I was  
14 still alive, so they got to look at me last  
15 week.

16 Q. And how long was that conversation for without  
17 going into the details of it?

18 A. A few hours.

19 MR. COGAN: Whatever you recall.

20 Q. Just for a few hours?

21 A. Mm-hmm.

22 Q. Was anyone else present at that or a  
23 participant in that conversation?

24 A. Just the three of us.

25 Q. Mary Hackett was the other person?

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1 would you be able to testify on this point  
2 right now as to whether the trustees would be  
3 required in the case of an event of default to  
4 call the bonds?

5 A. I think it's probably more appropriate that  
6 someone who really understood master trust  
7 indentures would -- if you are looking for an  
8 expert witness, I'm not going to presume that  
9 I'm an expert witness on the -- on the subject.

10 Q. Okay. So other than reading me what's in the  
11 master trust indentures, you wouldn't be able  
12 to testify more on this point if I put those  
13 documents in front of you?

14 A. Right.

15 Q. Do you have any personal knowledge whether the  
16 term unrestricted fund balance in any letter of  
17 credit agreement between PNC and AHERF, in  
18 fact, excludes intercompany loans?

19 A. I don't.

20 MS. HACKETT: Are you almost done,  
21 Kevin? Because you are on borrowed time. Are  
22 you about there?

23 MR. TERUYA: I just didn't anticipate  
24 this module to take longer than usual, so I'm  
25 sorry about that.

1 A. Right.

2 Q. Was that a face-to-face meeting?

3 A. It was a face-to-face meeting.

4 Q. And without going into the details of it, it  
5 was in connection with this deposition?

6 A. It was in connection with this deposition. I  
7 have certainly known other Jones Day people  
8 over the years. I haven't had any recent  
9 conversations with them about any other  
10 matters, and I haven't met with anybody else  
11 from Jones Day on the AHERF matter.

12 Q. Okay. Did you have any conversations with  
13 anyone from PNC about the subject matter of  
14 this deposition?

15 A. No.

16 Q. Do you have any present plan to testify at any  
17 trial in this litigation?

18 A. I haven't been invited.

19 Q. Are you involved in this litigation in any way  
20 other than testifying at this deposition?

21 A. Not that I'm aware of.

22 Q. Have you ever reviewed the Complaint or the  
23 First Amended Complaint in this litigation?

24 A. No.

25 Q. And are you in any way involved in monitoring



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| <p style="text-align: right;">Page 596</p> <p>1 the present extent of the bankrupt AHERF<br/>2 estate's net insolvency?</p> <p>3 A. No.</p> <p>4 Q. Do you know anyone at PNC who is?</p> <p>5 A. No.</p> <p>6 Q. And do you know anyone at PNC who is involved<br/>7 in this litigation other than people who may<br/>8 have testified already at depositions?</p> <p>9 A. No, I do not.</p> <p>10 MR. TERUYA: Okay. Can we go off the<br/>11 record.</p> <p>12 THE VIDEOGRAPHER: We are now going<br/>13 off the record. The time is 2:51 p.m.</p> <p>14 - - - -</p> <p>15 (There was a discussion off the record.)</p> <p>16 - - - -</p> <p>17 THE VIDEOGRAPHER: We are now back on<br/>18 the record. The time is 2:53 p.m.</p> <p>19 BY MR. TERUYA:</p> <p>20 Q. And to the best of your knowledge, PNC never<br/>21 declared an event of default on any of the<br/>22 letters of credit that it issued on behalf of<br/>23 AHERF entities prior to the bankruptcy; is that<br/>24 right?</p> <p>25 A. That's true.</p>   | <p style="text-align: right;">Page 598</p> <p>1 Q. And then as I understand your testimony, the<br/>2 facts and circumstances as they exist at the<br/>3 time will guide PNC in what remedies, rights,<br/>4 actions it may pursue?</p> <p>5 A. That's correct.</p> <p>6 Q. We looked earlier at an exhibit, Exhibit 1815,<br/>7 which was your effort to come up with a<br/>8 valuation for AHERF. Do you recall that?</p> <p>9 A. I do.</p> <p>10 Q. And as I would understand your testimony, it<br/>11 was your belief at the time that an orderly<br/>12 liquidation might result in the realization of<br/>13 a value in excess of the debt; is that right?</p> <p>14 A. Yes, that's correct.</p> <p>15 Q. But, of course, as you sit here today, you<br/>16 don't know whether that would, in fact, have<br/>17 been the case or not; is that correct?</p> <p>18 A. That's correct, I do not.</p> <p>19 Q. And I think even as you indicate in that<br/>20 Exhibit 1815, performing such a valuation as<br/>21 you did was a difficult task; correct?</p> <p>22 A. Yes, it was.</p> <p>23 Q. And one of the reasons I think that you<br/>24 identified for the difficulty in conducting<br/>25 the -- or doing the valuation was, as you write</p> |
| <p style="text-align: right;">Page 597</p> <p>1 MR. TERUYA: I have no further<br/>2 questions on direct.</p> <p>3 - - - -</p> <p>4 EXAMINATION</p> <p>5 - - - -</p> <p>6 BY MR. COGAN:</p> <p>7 Q. Mr. Cook, just a couple of quick questions, and<br/>8 this won't be long.</p> <p>9 Would it be fair to say that in your<br/>10 experience at PNC you have never ignored a<br/>11 covenant violation when such violation has been<br/>12 brought to your attention?</p> <p>13 A. Yes, that would be fair to say.</p> <p>14 Q. And would it be fair to say you are not aware<br/>15 of any employees that have worked for you at<br/>16 PNC that have ever simply ignored covenant<br/>17 violations when made aware of those violations?</p> <p>18 A. Absolutely.</p> <p>19 Q. And as I understood your testimony over the<br/>20 last day and a half, when you are apprised of a<br/>21 covenant violation, one of the things you will<br/>22 do is to look at the credit agreement to see<br/>23 what rights and remedies PNC may have; is that<br/>24 correct?</p> <p>25 A. That's correct.</p> | <p style="text-align: right;">Page 599</p> <p>1 here, a lack of confidence in the financial<br/>2 information that had been furnished to PNC; is<br/>3 that right?</p> <p>4 A. Yes, that's correct.</p> <p>5 Q. Did you later come to understand that AHERF and<br/>6 PriceWaterhouseCoopers advised the public in<br/>7 September of 1998 that people should not rely<br/>8 upon the audited financial statements that had<br/>9 been issued for the fiscal year 1997?</p> <p>10 A. I was informed of that, yes.</p> <p>11 MR. COGAN: That's all. Thank you.</p> <p>12 MR. TERUYA: I just have a handful of<br/>13 follow-up questions.</p> <p>14 MS. HACKETT: Just let me give you<br/>15 one admonishment.</p> <p>16 MR. TERUYA: It's not going to go<br/>17 past 3:30 so --</p> <p>18 MS. HACKETT: I'm not worried about<br/>19 timing, but the first hour of this morning was<br/>20 completely repetitive. Don't repeat anything.<br/>21 Please cover --</p> <p>22 MR. TERUYA: Yeah, they are follow-up<br/>23 questions on his cross.</p> <p>24 MS. HACKETT: That's great. I hope<br/>25 they are.</p>   |

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|---|---|
| <p style="text-align: right;">Page 600</p> <p>1 MR. TERUYA: Okay. They are, I</p> <p>2 promise.</p> <p>3 MS. HACKETT: Go ahead.</p> <p>4 - - - -</p> <p>5 RE-EXAMINATION</p> <p>6 - - - -</p> <p>7 BY MR. TERUYA:</p> <p>8 Q. With respect to the September '98 press release</p> <p>9 that you just testified about, am I correct</p> <p>10 that you don't personally know why it is that</p> <p>11 PWC and AHERF made that statement?</p> <p>12 A. No, I have no knowledge of the facts behind the</p> <p>13 statement they issued.</p> <p>14 Q. And you have no personal knowledge of whether</p> <p>15 or how, in fact, those financial statements</p> <p>16 were in any way unreliable; is that right?</p> <p>17 A. No. I mean I'll accept the fact that the two</p> <p>18 organizations, you know, had a certain</p> <p>19 reputation and if they are making this</p> <p>20 statement, I'll accept the fact at its face</p> <p>21 value that they believe the statement to be</p> <p>22 true.</p> <p>23 Q. And you have no personal knowledge as to the</p> <p>24 source of any lack of reliability that might</p> <p>25 have been present in those financial</p>   | <p style="text-align: right;">Page 602</p> <p>1 that information was in any way reviewed by</p> <p>2 Coopers &amp; Lybrand, the particular information</p> <p>3 that's at issue in your memo?</p> <p>4 A. Other than -- other than the earlier audited</p> <p>5 financials, no, I'm not aware of anything other</p> <p>6 than the audited financials of them -- you</p> <p>7 know, with a Coopers signature on an audited</p> <p>8 financial, I'm comfortable they should have</p> <p>9 reviewed it. Whether they did or not is up to</p> <p>10 them in their processes of applying the</p> <p>11 signature, but the unaudited information that</p> <p>12 came directly from the company, I have no</p> <p>13 knowledge as to whether Coopers reviewed that</p> <p>14 prior to it being given to us.</p> <p>15 Q. And in terms of your belief that there was a</p> <p>16 paucity of accurate financial information from</p> <p>17 the client and a lack of confidence in the</p> <p>18 financial information which had been received,</p> <p>19 did those statements apply to the audited</p> <p>20 financial statements as well at that point in</p> <p>21 time on July 8, on July 8 of 1998?</p> <p>22 A. To be honest I can't tell you whether I was</p> <p>23 thinking about the audits or -- you know,</p> <p>24 individually or collectively, or whether I was</p> <p>25 just thinking about financial information in</p> |
| <p style="text-align: right;">Page 601</p> <p>1 statements; is that fair to say?</p> <p>2 A. That's fair to say, yes.</p> <p>3 Q. And any lack of reliability could have been</p> <p>4 caused by a fraud on Coopers &amp; Lybrand for all</p> <p>5 you know; is that fair to say?</p> <p>6 MR. COGAN: Objection, calls for</p> <p>7 speculation.</p> <p>8 A. On their part?</p> <p>9 Q. No, a fraud on Coopers &amp; Lybrand, a key</p> <p>10 preposition.</p> <p>11 A. I can't -- I can't speculate. Since I said</p> <p>12 before I don't know the motives behind their</p> <p>13 issuing the release, I've got -- I've got no</p> <p>14 indication of what's going on, you know,</p> <p>15 between the two.</p> <p>16 Q. Okay. And in your memo, which is Exhibit 1815,</p> <p>17 Mr. Cogan referred you to the section on a lack</p> <p>18 of confidence in the financial information</p> <p>19 which has been received and a paucity of</p> <p>20 accurate financial information from the client.</p> <p>21 Am I correct that the financial</p> <p>22 information being discussed there is</p> <p>23 information from AHERF and AHERF management?</p> <p>24 A. It is, yes, you are correct.</p> <p>25 Q. And do you know, do you personally know whether</p> | <p style="text-align: right;">Page 603</p> <p>1 general. I can't tell you what was in my mind</p> <p>2 when I wrote that.</p> <p>3 Q. So you can't recall or you don't know as you</p> <p>4 sit here today whether those statements refer</p> <p>5 to merely the unaudited interim financial</p> <p>6 statements that were being provided in calendar</p> <p>7 year '98 by AHERF management?</p> <p>8 A. That's correct.</p> <p>9 Q. And lastly, you mentioned that the particular</p> <p>10 remedies chosen by PNC in the case of covenant</p> <p>11 noncompliance depends on the facts and</p> <p>12 circumstances at the time that such</p> <p>13 noncompliance occurred, is that --</p> <p>14 A. That's correct.</p> <p>15 Q. -- is that right? That's what you testified</p> <p>16 to?</p> <p>17 A. Yes, you guys both asked the same --</p> <p>18 MR. COGAN: We both got that.</p> <p>19 A. You got the same question, and I'll give you</p> <p>20 the same answer. Sorry.</p> <p>21 Q. And am I correct that if we hypothesize</p> <p>22 different events to have occurred, such as the</p> <p>23 provision of additional financial information</p> <p>24 at an earlier point in time, then that would,</p> <p>25 of course, change the facts and circumstances</p>  |

## C. DAVID COOK

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| <p style="text-align: right;">Page 608</p> <p>1 no further questions, the deposition is now<br/> 2 concluded at 3:04 p.m. Thank you.<br/> 3 -----<br/> 4 (The proceedings were concluded at 3:04 p.m.)<br/> 5 -----<br/> 6<br/> 7<br/> 8<br/> 9<br/> 10<br/> 11<br/> 12<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23<br/> 24<br/> 25</p>  | <p style="text-align: right;">Page 610</p> <p>1 COMMONWEALTH OF PENNSYLVANIA ) ERRATA<br/> COUNTY OF ALLEGHENY ) SHEET<br/> 2<br/> 3 I, C. David Cook, have read the foregoing pages<br/> 4 of my deposition given on Tuesday, November 25, 2003,<br/> 5 and wish to make the following, if any, amendments,<br/> 6 additions, deletions or corrections:<br/> 7 Page/Line Should Read Reason for Change<br/> 8<br/> 9<br/> 10<br/> 11<br/> 12<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20 In all other respects, the transcript is true and<br/> correct.<br/> 21<br/> 22 C. DAVID COOK<br/> 23<br/> 24 Subscribed and sworn to before me this<br/> day of _____, 2003.<br/> 25<br/> Notary Public<br/> AKF Reference No. HW78373</p> |
| <p style="text-align: right;">Page 609</p> <p>1 COMMONWEALTH OF PENNSYLVANIA ) CERTIFICATE<br/> 2 COUNTY OF ALLEGHENY ) SS:<br/> 3 I, Heidi H. Willis, RPR, CRR, a Court Reporter<br/> 4 and Notary Public in and for the Commonwealth of<br/> 5 Pennsylvania, do hereby certify that the witness, C.<br/> 6 DAVID COOK, was by me first duly sworn to testify to<br/> 7 the truth; that the foregoing deposition was taken at<br/> 8 the time and place stated herein; and that the said<br/> 9 deposition was recorded stenographically by me and<br/> 10 then reduced to printing under my direction, and<br/> 11 constitutes a true record of the testimony given by<br/> 12 said witness.<br/> 13 I further certify that the inspection, reading<br/> 14 and signing of said deposition were NOT waived by<br/> 15 counsel for the respective parties and by the<br/> 16 witness.<br/> 17 I further certify that I am not a relative or<br/> 18 employee of any of the parties, or a relative or<br/> 19 employee of either counsel, and that I am in no way<br/> 20 interested directly or indirectly in this action.<br/> 21 IN WITNESS WHEREOF, I have hereunto set my hand<br/> 22 and affixed my seal of office this 1st day of<br/> 23 December, 2003.<br/> 24<br/> 25 _____<br/> Notary Public</p> |   |

**Danforth Dep.**



**In The Matter Of:**

***AHERF v.  
PRICEWATERHOUSECOOPERS, L.L.P.***

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***DOUGLAS D. DANFORTH***  
***October 7, 2003***

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**DANFORTH, DOUGLAS D. - Vol. I**



DOUGLAS D. DANFORTH

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|--|--|
| <p>1 letter.</p> <p>2 Q. Okay.</p> <p>3 MR. McCLENAHAN: Unless you're close</p> <p>4 to being finished --</p> <p>5 MR. BROOKS: I'm close to a break</p> <p>6 point if that's your question.</p> <p>7 MR. McCLENAHAN: We probably ought to</p> <p>8 get some lunch at some point.</p> <p>9 MR. BROOKS: Yes. I'm at a good</p> <p>10 break point.</p> <p>11 THE VIDEOGRAPHER: We are now going</p> <p>12 off the record. The time is 12:40 p.m.</p> <p>13 - - - -</p> <p>14 (There was a luncheon recess in the</p> <p>15 proceedings at 12:40 p.m.)</p> <p>16 - - - -</p> <p>17 THE VIDEOGRAPHER: We are now going</p> <p>18 back on the record. The time is 1:37 p.m.</p> <p>19 - - - -</p> <p>20 EXAMINATION CONTINUED</p> <p>21 - - - -</p> <p>22 BY MR. BROOKS:</p> <p>23 Q. Mr. Danforth, I have handed you what's been</p> <p>24 previously marked as Exhibit 1656?</p> <p>25 A. In this big one.</p>   | <p>1 Restrictions Used for Operations of about 47</p> <p>2 million; correct?</p> <p>3 A. Right here?</p> <p>4 Q. Immediately below that.</p> <p>5 A. Right.</p> <p>6 Q. And did you have an understanding as to what</p> <p>7 net assets released from restrictions used</p> <p>8 for operations referred to?</p> <p>9 A. Do I now or did I then?</p> <p>10 Q. Are you able to answer either of those</p> <p>11 questions? Did you then?</p> <p>12 A. Probably not, unless they were unrestricted</p> <p>13 gifts of some sort that were in the kitty.</p> <p>14 Q. Did you generally understand that to refer to</p> <p>15 one type or another of endowment assets?</p> <p>16 A. Of course now I know to be a fact. Then I'm</p> <p>17 not sure whether I knew specifically that was</p> <p>18 where it came from.</p> <p>19 Q. Okay. Let me call your attention to the net</p> <p>20 income shown for fiscal year 1997 of about 22</p> <p>21 million.</p> <p>22 A. Yes.</p> <p>23 Q. You would agree with me, would you not, that</p> <p>24 to derive net operating income you would</p> <p>25 subtract at least investment income from that</p> |
| Page 127   | Page 129   |
| <p>1 Q. Related to an October 30, 1997 meeting of the</p> <p>2 board of trustees of AHERF.</p> <p>3 A. All right.</p> <p>4 Q. And do you believe this to be a set of</p> <p>5 materials that you received before the</p> <p>6 October 30, '97 board meeting?</p> <p>7 A. Yes.</p> <p>8 Q. If you turn in this document to page</p> <p>9 beginning with Bates number ending in 827,</p> <p>10 large number at the top 17.</p> <p>11 A. Okay.</p> <p>12 Q. You will find the consolidated financial</p> <p>13 statements for the year ended June 30, 1997,</p> <p>14 in draft form. Do you see that?</p> <p>15 A. Right.</p> <p>16 Q. I want to take you in that document to page</p> <p>17 ending 831 which is the consolidated</p> <p>18 statement of operations --</p> <p>19 A. Okay.</p> <p>20 Q. -- and direct your attention in the statement</p> <p>21 of operations first to the line item for</p> <p>22 Investment Income, which I believe you will</p> <p>23 see is about 85.9 million?</p> <p>24 A. Yes.</p> <p>25 Q. And below that Net assets Released From</p> | <p>1 net income?</p> <p>2 A. That's probably the case, yes.</p> <p>3 Q. And that would give you a number of about at</p> <p>4 a loss of about \$64 million?</p> <p>5 A. Yes, right.</p> <p>6 Q. And based on your current understanding at</p> <p>7 least you would also subtract out the \$47</p> <p>8 million of net assets released from</p> <p>9 restrictions; correct?</p> <p>10 MR. McCLENAHAN: If you wanted to get</p> <p>11 pure net operating income.</p> <p>12 MR. BROOKS: Net operating income,</p> <p>13 yes.</p> <p>14 BY MR. BROOKS:</p> <p>15 Q. Is that consistent with your understanding?</p> <p>16 A. Yes.</p> <p>17 Q. And that would leave you with something in</p> <p>18 the order of something in excess of a hundred</p> <p>19 million dollar net operating loss?</p> <p>20 A. Yes, except that you can't tell without</p> <p>21 looking at the prior year whether that \$47</p> <p>22 million is an upside number or downside</p> <p>23 number or whether it's an annual kind of a</p> <p>24 thing.</p> <p>25 Q. That is -- and I haven't asked you whether</p>   |

33 (Pages 126 to 129)

DOUGLAS D. DANFORTH

|   |  |
|---|--|
| <p style="text-align: right;">Page 130</p> <p>1 that's sustainable, but just in terms of this</p> <p>2 year's net operating loss if you would</p> <p>3 subtract out those two numbers and find</p> <p>4 something in excess of a hundred million</p> <p>5 dollar net operating loss for fiscal '97;</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. Do you recall that being a subject of, that</p> <p>9 is, a net operating loss of that scale being</p> <p>10 a subject of severe concern among AHERF board</p> <p>11 members?</p> <p>12 A. Again, I can't recall the specifics, but I</p> <p>13 would be sure that all of these numbers would</p> <p>14 have been discussed in some detail at one of</p> <p>15 the board meetings after this draft was</p> <p>16 presented because these are the kinds of</p> <p>17 things that were discussed at the board</p> <p>18 level. Macro numbers as opposed to all the</p> <p>19 details, yes.</p> <p>20 Q. Do you recall any member of the AHERF board</p> <p>21 after receiving these fiscal year '97 figures</p> <p>22 raising the suggestion that top management</p> <p>23 should be changed?</p> <p>24 A. I can't recall that. I don't recall that</p> <p>25 being the case, no.</p>   | <p style="text-align: right;">Page 132</p> <p>1 fiscal '97 numbers, have insisted that AHERF</p> <p>2 abandon the procurement of physician</p> <p>3 practices?</p> <p>4 A. Or changed their strategy and that together</p> <p>5 with other things, perhaps yes.</p> <p>6 Q. Do you know as you sit here today what</p> <p>7 particular business adjustments the</p> <p>8 management or the board would have insisted</p> <p>9 on in that circumstance?</p> <p>10 A. Well, again, we looked mostly at the whole,</p> <p>11 but it was known at that time that the</p> <p>12 eastern establishment was struggling, and I</p> <p>13 think it would beg the question of what do we</p> <p>14 do with the eastern entities other than MCP,</p> <p>15 which is an integral part of the strategy.</p> <p>16 Q. Explain to me, if you would, why MCP in the</p> <p>17 East was an integral part of strategy even</p> <p>18 for the western AHERF entities.</p> <p>19 A. Well, I explain it's two pieces. There is</p> <p>20 two parts of the strategy, and I dealt with</p> <p>21 one of them before. MCP was acquired because</p> <p>22 it was felt there is a need to have a</p> <p>23 coupling with a medical college for two</p> <p>24 reasons, one, to enhance our ability to</p> <p>25 attract research dollars and, secondarily, to</p> |
| <p style="text-align: right;">Page 131</p> <p>1 Q. Do you recall yourself considering opposing</p> <p>2 that?</p> <p>3 A. No, not at this time.</p> <p>4 Q. Let me ask you a hypothetical question. The</p> <p>5 hypothetical is that the consolidated</p> <p>6 statement of operations for AHERF for fiscal</p> <p>7 '97 had shown a net operating loss of \$200</p> <p>8 million instead of \$100 million. If that had</p> <p>9 been the case, as you sit here today, do you</p> <p>10 know whether AHERF management would have then</p> <p>11 replaced -- pardon me -- whether AHERF -- the</p> <p>12 AHERF board would then have replaced top</p> <p>13 management?</p> <p>14 A. Well, again, you posed it as a hypothetical</p> <p>15 question, that if that were the case;</p> <p>16 however, management was convincing in saying</p> <p>17 this is a transitional thing, twelve months</p> <p>18 from now everything will be quite different,</p> <p>19 you got another set of circumstances. So it</p> <p>20 is a hypothetical question and not very easy</p> <p>21 to answer.</p> <p>22 Q. Okay. On that same hypothetical do you know</p> <p>23 whether AHERF management -- on that same</p> <p>24 hypothetical do you know whether the AHERF</p> <p>25 board would then, that is upon receipt of the</p> | <p style="text-align: right;">Page 133</p> <p>1 serve as a source of residents to feed the</p> <p>2 western hospitals.</p> <p>3 Q. Did it, in fact, successfully serve both</p> <p>4 those functions?</p> <p>5 A. I believe so, yes.</p> <p>6 Q. Let me hand you a document previously marked</p> <p>7 as Exhibit 1655 in this litigation which is a</p> <p>8 set of minutes relating to an October 30,</p> <p>9 1997 AHERF board meeting. Mr. Danforth, am I</p> <p>10 correct that you were present at this</p> <p>11 particular meeting?</p> <p>12 A. I was. It says I was. I'm sure I was.</p> <p>13 Q. And the title of the document says Via Video</p> <p>14 Conference.</p> <p>15 A. Right.</p> <p>16 Q. Can you describe for me, if you recall,</p> <p>17 physically how this meeting was held?</p> <p>18 A. There was a conference room at Allegheny with</p> <p>19 a big screen and speakers on the table and a</p> <p>20 similar setup they had at Hahnemann, and so</p> <p>21 it was to save travel time. The meeting was</p> <p>22 conducted with both the video and audio</p> <p>23 systems in both places.</p> <p>24 Q. So a portion of the board was in Pittsburgh</p> <p>25 and a portion was physically located in</p>   |

34 (Pages 130 to 133)

DOUGLAS D. DANFORTH

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1 Philadelphia?  
 2 A. Exactly.  
 3 Q. Were other AHERF board meetings conducted in  
 4 that same way?  
 5 A. Some, but not all, but some.  
 6 Q. Did you find that meeting by video conference  
 7 to work adequately for the purpose of  
 8 enabling the board to discuss the issues that  
 9 were before it?  
 10 A. Yes. It's not quite as good as everyone  
 11 being there, but I still use them today. I'm  
 12 still on three corporate boards, and we use  
 13 them fairly frequently.  
 14 Q. Which boards are you still on today?  
 15 A. I'm still on Sola International and a company  
 16 called Envirasource in Philadelphia, and I'm  
 17 a partner in Greenwich Partners in New York.  
 18 Q. Well, let me ask you to turn to page ending  
 19 in 631. I'm going to call your attention to  
 20 the section headed Report on the Finance  
 21 Committee.  
 22 MR. McCLENAHAN: This is October 30,  
 23 1997.  
 24 A. Okay.  
 25 Q. The subheading here is Results of AHERF

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1 Q. In your judgment did the report that the  
 2 system was \$34 million behind budget amount  
 3 to an announcement that AHERF faced a serious  
 4 crisis?  
 5 A. I think it goes on to say that the  
 6 organization is strong financially.  
 7 Q. I'm asking you for your recollection of your  
 8 judgment when you heard this --  
 9 A. The 34 million is revenue, not income, so --  
 10 thank you. My fall allergies. What was the  
 11 question again?  
 12 Q. The question is did you -- was it your belief  
 13 when you heard this news that this meant that  
 14 AHERF was in a crisis situation?  
 15 A. Trouble yes, crisis no.  
 16 Q. How urgent did you judge it to be that  
 17 changes be made to improve revenues?  
 18 A. Well, at that time I'm sure the board felt  
 19 that still management had a solution to it  
 20 and they were taking appropriate actions, so  
 21 the board obviously accepted that at that  
 22 time.  
 23 Q. By the first quarter of '98 it was the case,  
 24 was it not, that AHERF had gone through  
 25 several years in which results had been

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1 Operations for the Period Ending  
 2 September 30, 1997. That would be the first  
 3 quarter of fiscal '98 is; correct?  
 4 A. Correct.  
 5 Q. Tell me when you've read that section to  
 6 yourself.  
 7 A. (Witness reviews document.)  
 8 Q. Now, did Mr. Abdelhak, in fact, record at  
 9 this meeting that the system was \$34 million  
 10 short of its revenue estimates --  
 11 A. Right.  
 12 Q. -- for the first quarter of '98?  
 13 A. Correct.  
 14 Q. Do you recall this meeting with any clarity?  
 15 A. I vaguely recall it with clarity. Probably  
 16 not.  
 17 Q. Do you recall your reaction to learning that  
 18 the system was \$34 million below budget for  
 19 one quarter alone?  
 20 A. Well, obviously it's a big number. Yes, I  
 21 can't recall the specifics of this particular  
 22 discussion. I do recall that there was great  
 23 discussion about the cutbacks in federal and  
 24 state support. That was discussed at several  
 25 meetings.

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1 disappointing?  
 2 A. Well, disappointing in the total arena of the  
 3 industry probably not because we were still  
 4 showing an after tax profit, modest as it  
 5 was, that it appeared as though the  
 6 organization was afloat and probably not any  
 7 worse off than others in our industry because  
 8 you may remember at that time hardly a week  
 9 went by that there wasn't something in the  
 10 press about hospital A, B, C, D, you know,  
 11 that the health industry was struggling.  
 12 Were we struggling more than others? I don't  
 13 know, but probably not at that time.  
 14 Q. After the disclosure of the first quarter '98  
 15 results did, to your recollection -- I asked  
 16 you this question as of the end of fiscal  
 17 year '97. Now I want to ask after the first  
 18 quarter '98 -- did you or any member of the  
 19 AHERF board suggest that top management,  
 20 including Mr. Abdelhak, be replaced?  
 21 MR. McCLENAHAN: And this is at what  
 22 time?  
 23 MR. BROOKS: After receiving the  
 24 first quarter '98 financial results.  
 25 A. You're talking about calendar '98 or --

35 (Pages 134 to 137)



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1 COMMONWEALTH OF PENNSYLVANIA ) CERTIFICATE  
 2 COUNTY OF ALLEGHENY ) SS:

3 I, Claire Gross, RDR, a Court Reporter and  
 4 Notary Public in and for the Commonwealth of  
 5 Pennsylvania, do hereby certify that the witness,  
 6 DOUGLAS D. DANFORTH, was by me first duly sworn to  
 7 testify to the truth; that the forgoing deposition  
 8 was taken at the time and place stated herein; and  
 9 that the said deposition was recorded  
 10 stenographically by me and then reduced to printing  
 11 under my direction, and constitutes a true record of  
 12 the testimony given by said witness.

13 I further certify that the inspection, reading  
 14 and signing of said deposition were NOT waived by  
 15 counsel for the respective parties and by the  
 16 witness.

17 I further certify that I am not a relative or  
 18 employee of any of the parties, or a relative or  
 19 employee of either counsel, and that I am in no way  
 20 interested directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto set my hand  
 22 and affixed my seal of office this 8th day of  
 23 October, 2003.

24 \_\_\_\_\_  
 25 Notary Public

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1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A  
 2 COUNTY OF ALLEGHENY ) S H E E T

3 I, DOUGLAS D. DANFORTH, have read the forgoing  
 4 pages of my deposition given on Tuesday, October 7,  
 5 2003, and wish to make the following, if any,  
 6 amendments, additions, deletions or corrections:  
 7 Page/Line Should Read Reason for Change  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19

20 In all other respects, the transcript is true and  
 21 correct.

22 \_\_\_\_\_  
 23 DOUGLAS D. DANFORTH

24 Subscribed and sworn to before me this  
 25 \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
 Notary Public  
 AKF Reference No. Cg77584

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**In The Matter Of:**

***AHERF v.  
PRICEWATERHOUSECOOPERS, L.L.P.***

---

***DOUGLAS DANFORTH***  
***October 8, 2003***

---

***LEGALINK MANHATTAN***  
***420 Lexington Avenue - Suite 2108***  
***New York, NY 10170***  
***PH: 212-557-7400 / FAX: 212-692-9171***

**DANFORTH, DOUGLAS - Vol. II**



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1 as requested by the auditors?

2 MR. McCLENAHAN: Objection to the  
3 form. Do you mean whether the AHERF managers  
4 would have reversed this?

5 MR. BROOKS: I'm sorry. What did I  
6 say?

7 THE WITNESS: You said the audit  
8 committee.

9 MR. McCLENAHAN: No, no. You didn't  
10 say audit committee.

11 MR. BROOKS: What I said on the  
12 transcript was AHERF management.

13 Why don't you read back the question,  
14 if you would.

15 MR. McCLENAHAN: Did you mean to say  
16 AHERF management? I think that's what you  
17 said.

18 MR. WHITNEY: Wait a minute. Let  
19 me --

20 MR. BROOKS: Let's just hear the  
21 question back. I think that's what I meant to  
22 say. If I --

23 MR. McCLENAHAN: Let me spell out my  
24 objection. If you want to re-ask it --

25 I object on the grounds of vagueness.

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1 reversed, do you have any knowledge, as you sit  
2 here today, as to whether AHERF management  
3 would have reversed the transfers?

4 A. I really don't. As we discussed yesterday, I  
5 was not on the audit committee, so I have no  
6 way of responding really to that.

7 Q. If the fiscal '97 financials proved to the  
8 board of trustees the level of bad debt expense  
9 at the Delaware Valley Obligated Group  
10 hospitals had been reported at a substantially  
11 higher level than it was, in fact, reported, do  
12 you know as you sit here today whether based  
13 upon those poorer results the board of trustees  
14 would have replaced top management at AHERF?

15 MR. McCLENAHAN: Objection. Vague.  
16 Without foundation.

17 MR. WHITNEY: Join.

18 THE WITNESS: I pass.

19 MR. BROOKS: You can do many things,  
20 but passing isn't one of them.

21 MR. McCLENAHAN: The question is, do  
22 you know as you sit here today whether the  
23 board would have replaced AHERF management; do  
24 you know that?

25 THE WITNESS: I don't know that, no.

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1 I wasn't sure you meant to use the word  
2 "managers." If you did, that's fine.

3 I'm not sure how this man could know  
4 that. It's vague. There's nothing in the  
5 question that would educate the witness about  
6 what the transfers were, what the magnitude of  
7 them were, that would give him a basis upon  
8 which to respond to the question.

9 BY MR. BROOKS:

10 Q. Let me ask a foundational question.

11 At some point, Mr. Danforth, in your  
12 capacity as a member of the board of trustees  
13 of AHERF or otherwise, did you come to learn  
14 the amount of reserves that had been  
15 transferred from Graduate entities to Delaware  
16 Valley Obligated Group entities?

17 A. We eventually, obviously, learned of it. I  
18 can't pinpoint the time, but we certainly  
19 learned of the magnitude of the dollars that  
20 were transferred, yes.

21 Q. And my question for you is this. It's a  
22 hypothetical question. I'll say that up front.

23 If, during the '97 audit, the  
24 Coopers & Lybrand audit team had taken the  
25 position that those transfers had to be

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1 MR. BROOKS: I have no further  
2 questions.

3 - - - -  
4 EXAMINATION  
5 - - - -

6 BY MR. WHITNEY:

7 Q. Mr. Danforth, we've met before. My name is  
8 Richard Whitney. I'm from Jones Day. I  
9 represent the creditors' committee in this  
10 case.

11 The creditors' committee in this case  
12 is suing PriceWaterhouseCoopers for audit  
13 failures in connection with the 1996 and 1997  
14 audits. Were you aware of that?

15 A. Yes.

16 Q. You have, if I may say, a rather remarkable  
17 resume, and we didn't even get to the issue of  
18 how many civic and nonprofit boards you sit on,  
19 but one of the civic and nonprofit activities  
20 you engaged in was being a member of first  
21 Allegheny General Hospital and then AHERF's  
22 board of trustees. Is that right?

23 A. That's correct.

24 Q. Now, this is something for which you were not  
25 paid.

4 (Pages 221 to 224)

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1 A. That's correct.  
 2 Q. And the other trustees were not paid either.  
 3 A. That's correct.  
 4 Q. In your judgment, were the other trustees of  
 5 AHERF, focusing on 1996 and 1997, men and women  
 6 of intelligence?  
 7 A. Yes.  
 8 Q. Men and women of demonstrated success?  
 9 A. Yes.  
 10 Q. All right. Mr. Danforth, if you knew in 1996  
 11 or believed in 1996 -- let me start over.  
 12 If you believed in 1996 that AHERF  
 13 was failing, and that left to pursue its  
 14 current tragedy it would end up in bankruptcy,  
 15 would you have demanded action be taken to curb  
 16 that problem?  
 17 MR. BROOKS: Objection.  
 18 THE WITNESS: Well, again, it would  
 19 depend on how it was framed. If we knew then  
 20 what we know now and that management felt the  
 21 deficiencies were correctable and that actions  
 22 were under way or could be taken to strengthen  
 23 the fiscal position of the overall enterprise,  
 24 probably we would not have taken action.  
 25 BY MR. WHITNEY:

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1 Q. All right. As a member of this board, you  
 2 testified you saw a great deal of financial  
 3 information, both audited and unaudited. Is  
 4 that right?  
 5 A. True.  
 6 Q. Did you attach any special significance to the  
 7 audited financial information that you  
 8 received?  
 9 A. The answer is yes, because those were the  
 10 official documents that reported the results of  
 11 the enterprise.  
 12 Q. And they were audited by Coopers & Lybrand, a  
 13 so-called big four or big six or big eight  
 14 accounting firm. Right?  
 15 A. Yes.  
 16 Q. Did you place --  
 17 As a trustee of a nonprofit board,  
 18 which you're engaged in without fee and for  
 19 civic good, did you place any special reliance  
 20 on Coopers & Lybrand's presence in evaluating  
 21 financial information?  
 22 MR. BROOKS: Objection.  
 23 MR. McCLENAHAN: You can answer the  
 24 question.  
 25 THE WITNESS: I can answer the

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1 question?  
 2 We placed, obviously, dependence on  
 3 both our internal auditing group and financial  
 4 people, as well as, obviously, external  
 5 auditors as you do in a for-profit or nonprofit  
 6 organization.  
 7 BY MR. WHITNEY:  
 8 Q. Coopers & Lybrand were independent of internal  
 9 management. Right?  
 10 A. That's correct.  
 11 Q. So Coopers & Lybrand would have been to you an  
 12 independent set of eyes?  
 13 A. Yes.  
 14 Q. Did that fact give you special comfort in  
 15 looking at the financial statements that they  
 16 audited and opined on?  
 17 MR. BROOKS: Objection.  
 18 THE WITNESS: Again, from my  
 19 experience in other enterprises as well as this  
 20 one, the answer is yes; you depend upon the  
 21 external auditors to verify what your internal  
 22 people are reporting.  
 23 BY MR. WHITNEY:  
 24 Q. Yesterday you were asked by Mr. Brooks, I  
 25 believe, what metric the board used to gauge

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1 management's success in this integrated  
 2 delivery strategy. Do you recall that?  
 3 A. Yes.  
 4 Q. Would one of those metrics be the financial  
 5 statements produced by the company as time went  
 6 on?  
 7 A. There were many criteria, obviously, comparing  
 8 our reporting benchmark against other  
 9 organizations, both for-profit and nonprofit  
 10 organizations; obviously numerical results,  
 11 occupancy rates, and many, many other factors  
 12 we used to measure the performance of senior  
 13 management.  
 14 Q. You'll recall when the United Hospitals were  
 15 acquired in the 1990s, they were not performing  
 16 very well. Do you recall that?  
 17 A. I recall that.  
 18 Q. And you recall that Mr. Abdelhak indicated that  
 19 he believed that through synergies that could  
 20 be achieved through consolidation, the  
 21 historically poor performance of those  
 22 hospitals could be turned around, and they  
 23 could become profitable. Is that right?  
 24 A. That's correct.  
 25 Q. In measuring whether or not Mr. Abdelhak was

5 (Pages 225 to 228)



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1 true to his word in turning around the  
2 performance of those hospitals, would the  
3 financial performance of those hospitals, as  
4 set forth in the audited financial statements,  
5 be relevant?

6 A. They would be relevant and looked at on a  
7 quarterly basis, yes.

8 Q. All right. The audited financial statements  
9 were available on an annual basis. Right?

10 A. Yes. Internal people reported quarterly, of  
11 course.

12 Q. Did there come a time in 1998 where you came to  
13 be aware that there was an issue about whether  
14 or not the 1997 audited financial statements  
15 had to be restated?

16 A. We became aware of that, as I recall, after  
17 many other events led us to ask for the  
18 resignation of senior management.

19 We had no way of knowing before we  
20 delved into the reasons for the predicament we  
21 found ourselves in in the first half of '98.

22 Q. Is it your recollection that you had already  
23 fired management before you were aware that the  
24 financial statements had to be restated?

25 A. I believe the answer is yes.

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1 Q. All the way up to the time he was discharged?

2 A. All the way up to the time.

3 Q. All right. As you look back on it today, are  
4 there questions in your mind about his  
5 integrity?

6 A. Well, you used two words, dishonesty and  
7 integrity.

8 Q. All right.

9 A. I don't think it was ever proven he was  
10 dishonest. His zeal, I guess you would call  
11 it, to support his CEO, was such that he  
12 probably bent and compromised himself in the  
13 reporting of the numbers.

14 Q. If Coopers & Lybrand, during the performance of  
15 their audits, had come to conclude themselves  
16 that Mr. McConnell was dishonest, would you  
17 expect them to tell the board of that  
18 revelation?

19 A. Yes.

20 Q. Would that be something that would matter to  
21 you as a board member?

22 A. Of course.

23 Q. Because the notion that the chief financial  
24 officer of an entity may be dishonest is  
25 something that is of some great concern?

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1 Q. All right. Do you recall why it is that the  
2 board determined to discharge David McConnell,  
3 the chief financial officer?

4 A. As I recall, he was discharged after Sherif was  
5 discharged; and Tony Sanzo, who succeeded  
6 Sherif, asked that he stay on for a time until  
7 he began to, you know, take over his  
8 responsibilities.

9 It was about, I think, one or two  
10 months that he decided, obviously, that he had  
11 to make a change in the CFO and others in that  
12 particular department, but it was after that  
13 Sherif was released.

14 Q. Do you remember why, though, the decision was  
15 made to terminate Mr. McConnell?

16 A. I can't remember exactly, no, but just Tony  
17 felt he had to make a change. That was a key  
18 position; and he made a change in human  
19 resource director, as well, I guess, feeling  
20 part --

21 They were not guessing. They were  
22 part of the problem.

23 Q. Did you at any time have any reason to doubt  
24 the honesty or integrity of Mr. McConnell?

25 A. I did not.

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1 A. Of course.

2 Q. All right.

3 A. Let me just qualify that by saying I don't  
4 think we would have just taken the word of the  
5 external auditors. We obviously would have had  
6 our own investigation to make sure that what  
7 was presented to us was, indeed, fact.

8 Q. All right. You mentioned a situation in Texas  
9 where on -- on a board where you were involved  
10 where Ernst & Young basically said in a  
11 management letter you're going to need to fire  
12 management, or we quit. Do you remember that?

13 A. I do.

14 Q. What if Coopers & Lybrand had told you that  
15 they had severe question about Mr. McConnell's  
16 honesty or integrity, and if you don't fire  
17 him, we quit? Is that something you would have  
18 taken seriously?

19 MR. BROOKS: Objection.

20 THE WITNESS: That's, again, a  
21 situation that you don't know how you'd react.  
22 We would certainly have taken it upon ourselves  
23 as a board to do our own investigating to see  
24 how much depth there was to this. We would  
25 engage, I'm sure, outside counsel and say let's

6 (Pages 229 to 232)

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1 Q. If Coopers & Lybrand told you that management  
2 was wrongfully trying to take money from those  
3 Lockhart trusts and take them into general  
4 income, would that be a matter of concern to  
5 you?

6 A. Are you talking about taking the principal or  
7 the earnings on --

8 MR. BROOKS: Objection.

9 BY MR. WHITNEY:

10 Q. The principal.

11 A. The earnings generally do flow right into the  
12 general income --

13 Q. I'm talking about capital gains that are  
14 staying in the trust through the sale of  
15 securities and that is restricted under the  
16 terms of the trust documents. Would that be a  
17 matter of concern to you?

18 MR. BROOKS: Objection. Lack of  
19 foundation.

20 THE WITNESS: Yes.

21 MR. WHITNEY: All right. That would  
22 be a matter of concern to you again because in  
23 the first place, AHERF is taking money out of  
24 restricted endowments and trying to take it  
25 into income. Right?

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1 MR. BROOKS: Objection.

2 THE WITNESS: I would have to see the  
3 document and see how it was worded; but, again,  
4 income can be taken into operations, whereas  
5 the principal, if it's restricted, as the name  
6 implies, it can't be touched.

7 BY MR. WHITNEY:

8 Q. In my hypothetical, Coopers & Lybrand is  
9 telling you they looked at the instrument, and  
10 it can't be touched. The money that AHERF is  
11 using can't be touched. Okay?

12 A. What's the question then?

13 Q. The question is, is that a matter of concern to  
14 you?

15 A. Yes.

16 Q. Would it cause you to question why management  
17 was trying to take restricted funds into  
18 earnings?

19 A. Again, you're talking about principal.

20 Q. Right.

21 A. Yes. That would be a concern.

22 Q. Would it also be a matter of concern to you  
23 that Coopers & Lybrand is saying what they are  
24 doing is contrary to GAAP?

25 A. Describe GAAP again to me.

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1 Q. Generally accepted accounting principles.

2 A. Of course. Of course. I would say yes. Yeah.  
3 Gap is a clothing manufacturer, also.

4 MR. BROOKS: Let's see if we can work  
5 them in here.

6 BY MR. WHITNEY:

7 Q. The total of these adjustments I've  
8 hypothesized would be instead of making  
9 \$6 million in 1996, AHERF was making negative  
10 30, 60, 75 -- approximately negative  
11 \$70 million in 1996 for the reasons I've given  
12 you in that hypothetical.

13 A. Well, as I said earlier, in that case you'd  
14 have to look at it vis-a-vis what the budget  
15 said they were going to do, what their  
16 pro forma expectations were and, again, you'd  
17 have to hear from management what are they  
18 going to do to correct their losses and the  
19 deterioration of the balance sheet.

20 Q. But in the context that I've given you for  
21 these adjustments, the first is that Coopers is  
22 telling you that management is overstating  
23 accounts receivable in the east, and,  
24 therefore, revenue in the east is being  
25 overstated.

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1 Secondly, management is wrongfully  
2 releasing into 1996 income reserves created in  
3 prior years, and is inappropriately enhancing  
4 revenue with nonoperational, noninvestment  
5 income; and, thirdly, they are using restricted  
6 funds to essentially pad the income statement.

7 In that context, would this be a  
8 matter of concern to you?

9 MR. BROOKS: Objection.

10 THE WITNESS: I think we just went  
11 over that. Again, I said before, what you  
12 would do is --

13 You would obviously get your  
14 management in the same room with the external  
15 auditors and say let's hash this out and find  
16 out who's right and whose opinion would  
17 prevail.

18 You wouldn't just act singularly on  
19 one opinion or the other independent of which  
20 side it came from.

21 BY MR. WHITNEY:

22 Q. What if you concluded as a result of that  
23 investigation if what Coopers told you was  
24 right and that the chief financial officer was  
25 preparing financial statements contrary to

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1 GAAP, would that be a matter of concern to you?

2 A. Yes.

3 Q. What if they told you at the end of 1996 that  
4 they had questions about Mr. McConnell's  
5 integrity? Would that have been a matter of  
6 concern to you?

7 MR. BROOKS: Objection.

8 THE WITNESS: It would have been  
9 investigated, yes.

10 BY MR. WHITNEY:

11 Q. Okay. If the investigation on your part  
12 determined that there was validity to that  
13 conclusion, what would you do?

14 A. You would ask for McConnell's resignation,  
15 obviously.

16 Q. You would fire McConnell?

17 A. Yes.

18 Q. If Abdelhak was in on it, you would fire  
19 Abdelhak, too. Right?

20 A. Yes.

21 Q. If you decided that the net effect of the  
22 adjustments I just talked about were that the  
23 board was being given severely overstated  
24 financial results, would you consider actions  
25 to try to stave off the losses that Coopers was

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1 at the effectiveness of the board. There's a  
2 lot of things you would look at.

3 MR. WHITNEY: Would you consider,  
4 perhaps, hiring a consultant to see whether or  
5 not there were actions that could be taken to  
6 improve results?

7 MR. BROOKS: Objection.

8 THE WITNESS: You would -- obviously  
9 at that point we would have had an outside  
10 counsel in to review with us the validity of  
11 the charges, and certainly at some point in  
12 time you'd get a hospital consultant in, as we  
13 did, as you know, early in 1998.

14 BY MR. WHITNEY:

15 Q. Uh-huh.

16 A. From Detroit, I believe. I can't remember  
17 their name.

18 Q. That was the next question I was going to ask  
19 you.

20 When all of this, in fact, came to  
21 pass, that is, you came to understand that  
22 financial results were materially different  
23 than what you had understood them to be, the  
24 board took decisive action. Right?

25 A. Correct.

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1 telling you about?

2 MR. BROOKS: Objection.

3 THE WITNESS: Well, again, these are  
4 a lot of hypothetical questions --

5 MR. WHITNEY: I'm bound to ask  
6 them --

7 THE WITNESS: You'd have to know the  
8 full context that this was presented and all  
9 the information on the table before you would  
10 take any action, because, obviously, if one is  
11 discharged improperly, then you've got other  
12 liabilities to be concerned about; so you'd  
13 have to make absolutely sure that the charges  
14 were valid and that there was justification for  
15 an action and, of course, a change in  
16 management.

17 MR. WHITNEY: But if you concluded  
18 that the charges were valid, in addition to  
19 terminating management, what other actions  
20 might be available to the board?

21 MR. BROOKS: Objection. Requires  
22 speculation.

23 THE WITNESS: Again, that's very hard  
24 to consider. Obviously you'd look at the  
25 competency of our audit committee, you'd look

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1 Q. You hired a consultant?

2 A. Correct.

3 Q. You considered whether or not you could address  
4 the problem by moving certain entities out of  
5 the system?

6 A. We looked at a lot of things, yes.

7 Q. But you didn't just sit there and do nothing.

8 A. That's correct.

9 Q. And in 1996, if you were confronted with the  
10 same situation, that is, that the true  
11 financial picture was considerably worse than  
12 what it had been portrayed as being, you  
13 wouldn't have sat there and done nothing.  
14 Right?

15 MR. BROOKS: Objection.

16 THE WITNESS: Again, as I stated  
17 yesterday, we would examine it in the whole.  
18 And if management were persuasive and convinced  
19 us, yes, these were the numbers and next  
20 quarter there would be this improvement and  
21 next year there will be this improvement, and  
22 we were persuaded of that, we probably would  
23 have continued with the same management for a  
24 period of time.

25 BY MR. WHITNEY:

14 (Pages 261 to 264)

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1 Q. All right.  
 2 A. So you have to look at all of the data before  
 3 you could make just an arbitrary decision as to  
 4 what you would do.  
 5 Q. But the bottom line is if the financial results  
 6 were materially wrong and management knew they  
 7 were materially wrong and Coopers was telling  
 8 you they were materially wrong, that would be a  
 9 serious matter facing the board. Right?  
 10 A. Correct.  
 11 Q. Let's assume instead of coming to you and  
 12 giving you a restated financial statement on  
 13 9-11-96, you came to realize that  
 14 Coopers & Lybrand was certifying a financial  
 15 statement in 1996 that they themselves knew to  
 16 be wrong, would that be a matter of concern to  
 17 you?  
 18 MR. BROOKS: Objection.  
 19 THE WITNESS: Well, the answer is  
 20 obviously it would be a concern, yeah.  
 21 BY MR. WHITNEY:  
 22 Q. All right. Did there come a point in time  
 23 where the board decided to terminate  
 24 Coopers & Lybrand?  
 25 A. No.

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1 Q. You don't recall that?  
 2 A. I don't recall that, no. I --  
 3 Q. All right.  
 4 A. You're talking about in 1998?  
 5 Q. Yes.  
 6 A. I don't recall a discussion of their removal.  
 7 It could have taken place, but I don't recall.  
 8 MR. WHITNEY: All right. Why don't  
 9 we take a short break, let me put some  
 10 documents together, and then we'll close up.  
 11 THE VIDEOGRAPHER: We're now going  
 12 off the record. The time is 10:09 A.M.  
 13 ----  
 14 (There was a discussion off the record.)  
 15 ----  
 16 THE VIDEOGRAPHER: We're now going  
 17 back on the record. The time is 10:26 A.M.  
 18 MR. WHITNEY: Back off the record  
 19 again.  
 20 THE VIDEOGRAPHER: Back off the  
 21 record. 10:26 A.M.  
 22 MR. WHITNEY: Okay. Back on. I'm  
 23 sorry.  
 24 MR. McCLENAHAN: Is there something  
 25 that you --

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1 Are we back?  
 2 THE VIDEOGRAPHER: We are now going  
 3 back on the record. The time is 10:26 A.M.  
 4 ----  
 5 (Exhibit 1653 previously marked for identification.)  
 6 ----  
 7 MR. WHITNEY: Mr. Danforth, yesterday  
 8 Mr. Brooks showed you an exhibit marked 1653  
 9 which was a document entitled Meeting of the  
 10 Audit Committee of the AHERF -- of AHERF for  
 11 10-15-97. If you refer to the large numbered  
 12 Page 70 and 71 of that document --  
 13 MR. McCLENAHAN: I have a different  
 14 version. Can you tell me what Bates number?  
 15 THE WITNESS: 70 and 71.  
 16 MR. WHITNEY: Is it one that's got a  
 17 CG Bates number?  
 18 MR. McCLENAHAN: It's a GD and a GOV.  
 19 I'll take either of those. Tell me what  
 20 you're --  
 21 MR. WHITNEY: I'm looking at the  
 22 management letter, general overview, 1987 --  
 23 MR. McCLENAHAN: I can find that.  
 24 BY MR. WHITNEY:  
 25 Q. All right. You recall that Mr. Brooks examined

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1 you yesterday about this management letter?  
 2 A. Right.  
 3 Q. All right. And you remember he asked you  
 4 whether or not you regarded this as a strong  
 5 management letter. Do you recall that?  
 6 A. I do.  
 7 Q. My only question to you is, Mr. Brooks did not  
 8 show you, I believe, if you turn back to  
 9 Page --  
 10 I'm sorry. We need to go off the  
 11 record one more time. Hold on one second.  
 12 ----  
 13 (There was a brief pause in the proceedings.)  
 14 ----  
 15 MR. WHITNEY: Back on.  
 16 BY MR. WHITNEY:  
 17 Q. Mr. Danforth, as part of that same package, if  
 18 you turn back to Page 14 --  
 19 Actually, if you turn back to Page  
 20 10 --  
 21 A. Okay.  
 22 Q. -- you will see that included in the same  
 23 package along with the management letter is a  
 24 consolidated financial statement for year ended  
 25 6-30-97 denominated as draft. Do you see that?

15 (Pages 265 to 268)



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1                   - - - -  
 2       (The witness reviewed the document.)  
 3                   - - - -  
 4           THE WITNESS: Right.  
 5           MR. WHITNEY: All right. My  
 6       questions are fairly brief here.  
 7           Do you recall that at this point in  
 8       time there was a discussion of the possibility  
 9       of not retaining PriceWaterhouseCoopers to do  
 10      the audits for 1998?  
 11      MR. BROOKS: Objection.  
 12      THE WITNESS: As I said earlier, I  
 13      actually don't recall any discussion.  
 14   BY MR. WHITNEY:  
 15   Q. All right.  
 16   A. I'm not sure. Was I at this --  
 17   Q. Yes. You were at that meeting. We already  
 18      quoted you as doing some arithmetic.  
 19   A. Yes. I was there. I can't recall that  
 20      discussion.  
 21   Q. Here's the only reason I showed you this  
 22      document is I'm intrigued by the statement of  
 23      Palmer, we, the board, got fed a tremendous con  
 24      by Dave and Sherif when we voted on a single  
 25      consolidated audit.

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1           Do you see that?  
 2   A. Yes.  
 3   Q. Do you have any recollection, as you sit here  
 4      today, of what it was Palmer was talking about  
 5      there?  
 6   A. No, I don't, actually.  
 7   Q. Or what it was that was so apparently agitating  
 8      Palmer in that statement?  
 9   A. By that time, of course, the whole thing was  
 10     collapsing, so Palmer was very annoyed, as were  
 11     many board members, that it was happening. We  
 12     were obviously --  
 13         It says Dave and Sherif fed us a real  
 14     con job, which in that respect they did, but,  
 15     you know --  
 16   Q. But my question is, the con supposedly by Dave  
 17      and Sherif that he's talking about appears to  
 18      relate to voting on a single consolidated  
 19      audit.  
 20   A. Right.  
 21   Q. My question is, do you remember what the issue  
 22      was, if any, as to what was a con as it related  
 23      to the single consolidated audit?  
 24      MR. BROOKS: Objection.  
 25      THE WITNESS: I don't really remember

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1       that discussionwise, no.  
 2       MR. WHITNEY: Okay. I have no  
 3       further questions. Thanks so much,  
 4       Mr. Danforth.  
 5       THE WITNESS: You're welcome.  
 6       MR. BROOKS: And I have no questions.  
 7       MR. McCLENAHAN: No questions.  
 8       MR. BROOKS: You're done.  
 9       John, anything?  
 10      MR. UNICE: Maybe. One second.  
 11      THE WITNESS: I have a question. How  
 12      do I look?  
 13           - - - -  
 14      (There was a discussion off the record.)  
 15           - - - -  
 16      THE WITNESS: I would have powdered  
 17      my head. You can put that in.  
 18      THE VIDEOGRAPHER: If there are no  
 19      further questions, the deposition is now  
 20      concluded. We are now going off the record.  
 21      The time is 10:50 A.M.  
 22           - - - -  
 23      (The proceedings were concluded at 10:50 a.m.)  
 24           - - - -  
 25

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1   COMMONWEALTH OF PENNSYLVANIA )   CERTIFICATE  
 2   COUNTY OF ALLEGHENY         )   SS:  
 3       I, G. Donavich, RPR, CRR, a Court Reporter and  
 4   Notary Public in and for the Commonwealth of  
 5   Pennsylvania, do hereby certify that the witness,  
 6   DOUGLAS DANFORTH, was by me first duly sworn to  
 7   testify to the truth, the whole truth, and nothing  
 8   but the truth; that the foregoing deposition was  
 9   taken at the time and place stated herein; and that  
 10   the said deposition was recorded stenographically by  
 11   me and then reduced to printing under my direction,  
 12   and constitutes a true record of the testimony given  
 13   by said witness.  
 14       I further certify that I am not a relative or  
 15   employee of any of the parties, or a relative or  
 16   employee of either counsel, and that I am in no way  
 17   interested directly or indirectly in this action.  
 18       IN WITNESS WHEREOF, I have hereunto set my hand  
 19   and affixed my seal of office this 9th day of  
 20   October, 2003.

\_\_\_\_\_  
 Notary Public